

20 March 1968

MEMORANDUM FOR THE RECORD

SUBJECT: S. 3123 - Office of Administrative Ombudsman

1. S. 3123 was introduced by Senator Long on 8 March 1968. The bill establishes, on a pilot project basis, an administrative Ombudsman authorized to investigate administrative acts, practices, or procedures of Federal agencies (Sec. 4(a)). CIA is not exempted (Sec. 2(c)).
2. The purpose of the bill is to provide an intermediary authority in the role of public defender where there is conflict between the public and an administrative agency. While the Agency is not commonly thought of as an "administrative agency" having dealings with the public of a quasi-legislative or -judicial nature, this bill, like similar bills introduced in the past, does not specifically exempt the Agency.
3. The Ombudsman is given several special authorities which are of particular interest and come into conflict with existing provisions or programs of interest to CIA. These include the authority to make on the spot investigations of agency proceedings and activities only subject to proper notice to an appropriate official (Sec. 4 (c)). The Ombudsman is also authorized to make general studies or inquiries which would enhance the knowledge about or lead to improvements in the functioning of administrative agencies (Sec. 5(b)). Further, in any investigation he may obtain any and all information from the agency as he determines necessary; inspect the premises of an agency; and hold private hearings with a complaining individual and agency officials (Sec. 5(c)). He is authorized to bring action in a district court to

enforce certain aspects of his investigative powers (Sec. 5(d)). He is also authorized to make his findings public and to submit his recommendations to the agency and to receive notice from the agency of action taken on these recommendations. Neither the Ombudsman nor his staff is subject to civil or criminal action unless the action can be proved to be the product of bad faith (Sec. 8(a)). Further, the powers of the Ombudsman may be exercised notwithstanding any other provision of law that administrative action is either final or not appealable (Sec. 8(c)). Obstruction of the Ombudsman's exercise of power is subject to court sanction (Sec. 9).

4. Although S. 3123 is intended to be limited to the State of Missouri (the powers do not appear to be so limited), the bill again raises the general question of the treatment of the Central Intelligence Agency as an administrative agency and the degree to which it is subject to the family of rules which fall under the "Administrative Procedure Act."

SIGNED

Office of Legislative Counsel

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18 March 1968

MEMORANDUM FOR THE RECORD

SUBJECT: Department of Justice Meetings on S. 2988

1. At the invitation of Walter Yeagley, Assistant Attorney General, I attended meetings at the Department of Justice on 14 and 15 March to arrive at an Administration position on S. 2988. The session on 14 March was organizational in nature for the purpose of determining which agencies desired to comment on which titles of the bill. I indicated that the Agency would like to be present for the discussion of Title VI, Title VII, and Sections 1001 and 1003 of Title X.

2. The meeting on 15 March was scheduled to discuss Title VI. During the discussion of Title VI, the State Department representative indicated that State would request an exemption from this Title in view of their position as a USIB agency. The Department of Defense representative stated that Defense would ask that all intelligence agencies be exempt for a similar reason. The Title was then discussed section by section on the basis of a prepared position which was furnished by the Department of Justice (see attachment). In essence, the Justice position is that many of the sections may be unconstitutional and of those which are not Executive Order 10450 essentially covers the need. All agencies agreed with the Department's position, but some expect to submit minor comments as they particularly effect the agency in question.

SIGNED

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Attachment


Assistant Legislative Counsel

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